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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,266	12/02/2003	Vito James Carlucci	884.0212USQ	3356

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EXAMINER

GIBSON, RANDY W

ART UNIT PAPER NUMBER

2841

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

EX

<b>Office Action Summary</b>	<b>Application No.</b> 10/726,266	<b>Applicant(s)</b> CARLUCCI, VITO JAMES	
	<b>Examiner</b> Randy W. Gibson	<b>Art Unit</b> 2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 8, 13-19, 26-29, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 13-19 and 26-29 is/are rejected.
- 7) ☒ Claim(s) 33 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 28 February 2006 have been fully considered but they are not persuasive. Applicant argues that the reference to Oldendorf '477 does not "teach or suggest the use of a balance display being operatively connected to a computer". The examiner disagrees. First of all, the title of the reference itself, namely "Electronic Balance ...", implies that there is a microprocessor controller embedded therein. The word "electronic" implies semiconductor circuitry, since "electronics" is the branch of science involving the movement of small amounts of charge through, among other things, semi-conductive materials (As opposed to the study of the bulk movement of charge through metals, which is known as "electrics")<sup>1</sup>. Since all digital circuitry is normally semiconductor based circuitry, one of ordinary skill in the electrical arts would have assumed that an "electronic" scale is a digital scale -- since that is how the term is typically used. It is noted that the other cited reference to Oldendorf, US patent # 4,650,014, is also entitled "Electronic Balance ..." and it expressly describes using a microprocessor based controller in the written description (Col. 14, lines 48-57). Since Oldendorf '477 does not expressly state what its "electronic" controller is, it is reasonable to assume that the ordinary practitioner in the art would have understood that by using the word "electronic", Oldendorf certainly meant "digital" -- which most certainly implied "microprocessor controlled" to the ordinary practitioner.

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1. *Modern Dictionary of Electronics, Seventh Ed.*, Rudolf F. Graf, Ed., Butterworth-Heinemann, Woburn, MA, Copyright 1999, pp. 248-249.

Second of all, the seven digit display shown in Oldendorf '477 (Fig.s 4-15) is clearly a digital display (not an analog one) -- implying that there must be a digital circuit for driving the digital display in order for the display to be operative. One of ordinary skill in the art would have understood "digital" to have meant "microprocessor controlled". Third of all, it is not clear how the scale of Oldendorf could have possibly have carried out the disclosed "corner-load corrections" if there were not a computer controller embedded therein to carry out the required calculations. Fourth of all, Oldendorf '477 states that the corner-load corrections coefficients are "stored"; if data is being "stored", then there must be a memory of some sort to act as a data storage. Since a "computer" is commonly defined as a controller, such as a digital microprocessor, coupled with some means for "storing" data and for "storing" internal instructions on how to automatically manipulate that data (such as a memory)<sup>2</sup>, then it is clear that the ordinary practioner in the art would have known that a computer was inherently disclosed by the reference to Oldendorf '477, even though it is not expressly mentioned: "in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968); and, *MPEP* § 2144.01. See also *MPEP* § 2112.

Applicant also argues that the reference to Kraus does not "teach or suggest

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2. *Modern Dictionary of Electronics, Seventh Ed.*, Rudolf F. Graf, Ed., Butterworth-Heinemann, Woburn, MA, Copyright 1999, p. 142-143.

the use of a balance display being operatively connected to a computer". First of all, the examiner notes that a "computer" does not need to be digital; there are analog calculators. Second of all, ever since the invention of the microprocessor, it has been common in almost all of the electrical arts to upgrade old analog controlled devices to digitally controlled ones (I.E.: electric clocks become digital clocks; analog TVs become digital TVs; etc.); see column 6, lines 38-43 of Mori et al, for example. So even if "computer" is interpreted to mean a digital computer only, it would have been obvious to the ordinary practitioner to upgrade the device of Kraus to replace the analog electric control circuitry with an electronic digital controller for efficiency.

With regards to the feet that are adjustable relative to the upper surface of the scale, newly added to claim 26, the examiner has already noted in the previous office action that scales with vertically adjustable feet are known and would have been an obvious addition to almost any scale to allow leveling of the scale platform as taught by Meyer et al. It is not clear if the scale of Oldendorf has four weight sensors, one in each corner (I.E.: one directly above each foot), but such an arrangement is common as shown by the examples of Mori et al, Peronneau et al, or Johnson et al.

### ***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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3. Claims 1-3, 5, 6, 8, 13, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kraus (US # 2,653,475). Kraus discloses a weight position sensor system that has a weight supporting surface (1), three or more load detection sensors (15-16) for detecting the relative position of the center of gravity of the object (Col. 4, lines 10-33) on the surface, an output signal generator (Col. 3, lines 7-21) with a balance display (27-28), and a primitive analog electro-mechanical computer controller and a display screen (29) coupled to the computer (Col. 3, lines 22-69).

With respect to claims 2 & 3, 19, the outputs of the meters 27-28 are coupled to the display screen 29 (Col. 3, lines 35-69).

With respect to claims 8 & 13 element 29 is the display screen. With respect to claims 5 & 6, there are four coils for detecting loads arranged in a square.

4. Claims 1, 5, 6, 8, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al (US # 5,750,937). Johnson discloses a weight position sensor system that has a weight supporting surface (20), three or more load detection sensors (30) for detecting the presence of an object (Col. 13, lines 3-17) and the relative position of the center of gravity of the object (Col. 8, lines 56-67; Col. 10, lines 37-65; Col. 12, lines 52-63; Col. 13, lines 41-47; Col. 14, lines 27-43) on the surface, computer controller (Col. 9, lines 14-20), an output signal generator (Col. 9, lines 21-22), and a display screen coupled to the computer (Col. 9, lines 21-30).

With respect to claim 5, there are four load sensors. With respect to claim 6, the four are arranged in a square (Fig. 3). With respect to claims 8 & 19, the display (26) obviously has a screen (Fig. 1).

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oldendorf et al (4,848,477) in view of Vitunic et al (US # 4,909,338). Oldendorf et al disclose a weight position sensor system that has a weight supporting surface (1), multiple load detection sensors which send a signal to an electronic controller "indicative" of the center of gravity of a weighed object (Col. 2, lines 52-62), a balance display (3), and an output signal generator (Inherently part of the electronic circuitry which drives the display, since the display would otherwise be inoperative without an input.). As noted in the response to arguments section above, the controller of Oldendorf et al must inherently be a "computer" since it would require a microprocessor controller to perform the required corner load calculations (And the title "electronic balance" would have been understood by the ordinary practioner to be referring to a microprocessor controlled scale.). Furthermore, Vitunic teaches (Fig. 2) that it is common to use microprocessor controllers in corner-load corrected electronic scales of the type disclosed by Oldendorf, so if not inherently present already, it would have been

obvious to the ordinary practioner to provide the scale of Oldendorf with a computer controller motivated by its art recognized suitability for its intended use. See *Ryco, Inc. v. Ag-Bag Corp.*, 857 F.2d 1418, 8 USPQ2d 1323 (Fed. Cir. 1988); and *MPEP* §§ 2144.06 & 2144.07.

It is possible that the applicant means that his "controller" and his "computer" are two different things. If so, the examiner notes that the prior art computer controller (106) of Vitunic is connected to both a display (108) and is also networked to another computer (112), which must also have its on display. Networking two different computers together enables more efficient data transfer and would have been obvious to the ordinary practioner motivated by the same.

Oldendorf discloses the claimed invention except it is not clear if Oldendorf has "three or more" load cells. Oldendorf simply states that they have multiple built-in "sensors". Vitunic shows (Fig.s 3 & 6) that it is known to use four symmetrically arranged weight sensors in corner-load corrected electronic scales of the type disclosed by Oldendorf. It would have been obvious to the ordinary practioner to use four symmetrically arranged load cells to support the weight platter of Oldendorf motivated by its art recognized suitability for its intended use.

With respect to claim 19, a display must inherently have a protective glass, or Plexiglas, screen.

7. Claims 1-6, 8, and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oldendorf et al. in view of Vitunic et al as applied to claims 18 & 19 above, and further in view of Johnson et al (US # 5,750,937), Kasinoff (US #



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4,763,739), and Zeigner et al (US # 4,576,244). With respect to claim 1, Oldendorf does not expressly disclose that it can detect the “presence” of the object on the weight supporting surface. It is unclear if this functional statement defines any patentable difference over the prior art or not, but if it does, Johnson discloses that it is known to program an electronic scale to detect the presence of an object on the weighing surface in order to automatically initiate other scale functions, such as powering up the display, without further user input required (Col. 7, lines 19-29; Col. 13, lines 3-27). It would have been obvious to the ordinary practitioner to program the scale of Oldendorf to detect the presence of an object on the scale, as suggested by Johnson, to automatically initiate scale functions without the need for further user input motivated by the convenience of the user.

With respect to claims 2 & 3, Oldendorf discloses using either separate LEDs or “arrows” built into the seven segment digital display to show position (Col. 1, lines 33-68).

With respect to claim 8, a display must inherently have a protective glass, or Plexiglas, screen.

With respect to claim 14, Oldendorf does not expressly state that his scale has a power down function to cut off the scale; however, it is known to provide a scale with power down function as shown by the example of Kasinoff (Abs.). It would have been obvious to the ordinary practitioner to include a power down function in order to save energy.

With respect to the limitation of providing a clock & calendar display found in claim 15, it is known to provide a scale with a time & date display as shown by the example of Zeigner (Col. 4, lines 21-30). It would have been obvious to the ordinary practioner to program the scale of Oldendorf to include a time & date display when not being used for the convenience of the user.

As for the limitation found in claim 16 that the scale also has a radio, the examiner notes that it is known to combine a radio into other electronic devices, such as an alarm clock for example, so it would have been obvious to the ordinary practioner to include a radio into a scale in order to make it more appealing to a potential customer by adding an additional convent feature.

As for the limitation in claims 4 and 17 that the scale have a programmable sound, Zeigner discloses that it is known to provide a scale with sounds(Col. 4, ln.s 32-62). It would have been obvious to the ordinary practioner to include a buzzer or other audible devices in the scale of Oldendorf to indicate an abnormal condition, such as an out of position test weight, motivated by the convenience of the user.

8. Claims 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oldendorf et al. in view of Vitunic et al as applied to claims 18 & 19 above, and further in view of Meyer et al (US # 6,407,351 B1). As already noted above, the aforementioned combination discloses the claimed invention; however, the combination mentioned above does not disclose the limitation of adjustable feet located at the four corners of the scale (I.E.: directly under the load cells). Meyer discloses that it is known to provide

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a weighing scale with four vertically adjustable feet, in order to level the scale surface to prevent a weighed object from sliding off, and insure weighing accuracy. It would have been obvious to the ordinary practitioner to provide the scale of Oldendorf with adjustable feet so that the user can level the scale on any surface.

With respect to claims 27 & 28, Vitunic shows four load cells arranged in a square pattern (I.E.: the four corners, which are directly above the four feet which are also located in each of the corners). Vitunic also shows that load cells are almost always made from strain gage load sensors. If not inherently present already, it would have been obvious to the ordinary practitioner to use strain gage load cells in the device of Oldendorf motivated by its art recognized suitability for its intended use.

### ***Conclusion***

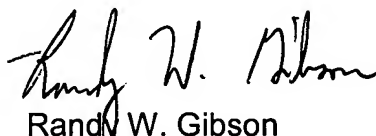
9. Claims 33 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamand Cuneo can be reached on (571) 272-1957. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Randy W. Gibson". The signature is fluid and cursive, with the first name "Randy" being more prominent.

Randy W. Gibson  
Primary Examiner  
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